



# County of San Diego

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## MITIGATED NEGATIVE DECLARATION

August 2, 2022

Project Name: Los Coches Low Flow Urban Runoff Diversion to Sewer Project

Project Number(s): 1023735

**This Document is Considered Draft Until it is Adopted by the Appropriate County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the Environmental Initial Study that includes the following:

- a. Initial Study – Environmental Checklist Form
- b. Attached technical studies for biological resources, aquatic resources, and cultural resources.

1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period, and; on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project will have a significant effect on the environment.

2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

### A. BIOLOGICAL RESOURCES

1. To avoid impacts to least Bell's vireo, grading, brush clearing, and all other construction within or adjacent to (within 300 feet of southern willow scrub) occupied habitat should be conducted between September 16 and March 14. However, if construction must occur within 300 feet of southern willow scrub between March 15 and September 15, the following actions would be required:

- a. A qualified biologist shall conduct a pre-construction clearance survey for nesting birds within suitable habitat to determine whether avian species are nesting within 300 feet of the construction area.
  - b. If least Bell's vireo are nesting within vegetation to be removed, no grading or clearing of said vegetation shall occur within 300 feet of the active nest until the young have fledged and are independent of the nest.
  - c. If least Bell's vireo are nesting within vegetation not to be removed, construction activity should be avoided within 300 feet of the active nest, if possible. If construction must occur within 300 feet of an active nest, temporary sound barriers may be required, or grading may be restricted in construction areas near the nest site to reduce noise levels. Temporary sound barriers must be placed within or surrounding the project footprint and not in the habitat outside the project boundary. In addition, an acoustician shall measure noise levels during construction activities at the edge of the project footprint near the occupied habitat closest to the nest. Noise levels must be less than 60 decibels (dB) averaged over a one-hour period on an A-weighted decibel (dB[A]) scale (i.e., 1-hour  $L_{eq}/dB[A]$ ) or the ambient noise level, whichever is greater.
  - d. If no least Bell's vireo are observed nesting within 300 feet of the project boundary, no grading or construction restrictions associated with least Bell's vireo would apply. In addition, no restrictions are required for this species outside its nesting season.
2. If construction initiation occurs between January 15 and September 15, a pre-construction nesting bird and raptor survey of the project impact area shall be completed by a qualified biologist prior to vegetation removal. The pre-construction survey shall be conducted prior to the start of construction activities (including removal of vegetation). If any active nests are detected, the area will be flagged and mapped along with a buffer as recommended by the qualified biologist. The buffer area(s) established by the qualified biologist will be avoided until the nesting cycle is complete or it is determined that the nest is no longer active. The qualified biologist shall be a person familiar with bird breeding behavior and capable of identifying the bird species of San Diego County by sight and sound and determining alterations of behavior as a result of human interaction. Buffers will be based on species-appropriate buffers and/or local topography and line of sight, species behavior and tolerance to disturbance, and existing disturbance levels, as determined appropriate by the qualified biologist.
  3. In-kind mitigation for 0.01 acre of permanent impacts to southern willow scrub would be implemented at a 1:1 ratio. This compensatory mitigation shall be accomplished in the form of either enhancement, restoration, and/or creation of habitat; deduction of credits from a County-approved mitigation area; or other off-site preservation totaling 0.01 acre of in-kind or better habitat. Mitigation for impacts to temporarily impacted sensitive vegetation communities shall occur at 1:1 via the restoration of these temporary impact areas to their pre-impact conditions.

4. The project would result in the permanent loss of the following jurisdictional resources: 0.01 acre of CDFW riparian habitat. To mitigate this permanent impact, mitigation will be in the form of either enhancement, restoration, and/or creation of habitat; deduction of credits from a County-approved mitigation area; or other off-site preservation. This is the same 0.01-acre impact associated with the habitat-based mitigation described in M-BIO-1 above; however, mitigation is proposed at a higher ratio (2:1) for permanent impacts to CDFW jurisdiction. Mitigation for proposed temporary impacts to a total of 0.0003 acre (13 square feet) of wetland waters of the U.S./State and an additional 0.05 acre of CDFW riparian would occur via the restoration of these temporary impact areas to their pre-impact conditions. Final detailed mitigation ratios and configuration would be determined through negotiation with the resource agencies.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

**A. BIOLOGICAL RESOURCES**

1. Prior to any grading, clearing, or construction activities, a qualified biologist will be retained to provide periodic biological monitoring during project construction to prevent inadvertent disturbance to potentially jurisdictional wetlands and waters. The project biologist shall verify the implementation of the following measures during construction:
  - a. Prior to any grading, clearing, or construction activities, the project applicant shall install prominently colored Environmentally Sensitive Area fencing or silt fencing wherever the limits of grading are adjacent to potential jurisdictional wetlands and waters, as identified by the qualified biologist. Fencing shall remain in place during all construction activities.
  - b. During construction, the project shall use silt fences, fiber rolls, gravel bags, and soil stabilization measures such as erosion control mats and hydroseeding as necessary and applicable.
  - c. Staging/storage areas for construction equipment and materials will not be located in jurisdictional wetlands of waters.
  - d. No spoils, debris, rubbish, cement, or concrete, or washing thereof, oil, or petroleum products will be stored where it may be washed by rainfall or runoff into jurisdictional waters.
  - e. No equipment maintenance or fueling will be performed within or near jurisdictional wetlands or waters, where petroleum products or other pollutants from the equipment may enter these areas. Any equipment or vehicles driven

and/or operated adjacent to a jurisdictional water will be checked and maintained by the operator daily to prevent leaks of oil or other petroleum products.

- f. When construction operations are completed, any excess materials or debris will be removed from the work area.

**B. TRIBAL CULTURAL RESOURCES**

- 1. If human remains are encountered, consistent with California Health and Safety Code Section 7050.5, no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin of the remains. Further, consistent with California Public Resources Code Section 5097.98(b), human remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made.
- 2. If the County Coroner determines the remains to be Native American, the Native American Heritage Commission (NAHC) shall be contacted within twenty-four (24) hours. The NAHC shall immediately identify the "most likely descendant(s)" (MLD) and notify them of the discovery. The MLD shall make recommendations within forty-eight (48) hours after being allowed access to the site and engage in consultations with the landowner concerning the treatment of the remains. The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further construction activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted. Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed.

**ADOPTION STATEMENT:** This Mitigated Negative Declaration was adopted, and above California Environmental Quality Act findings made by the:

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on \_\_\_\_\_

Kimberly Jones, Land Use/Environmental Planner III  
DPW Environmental Services Unit